

**HIGH COURT OF TRIPURA
AGARTALA
LA APP NO.72 OF 2021**

Smt. Mina Saha and ors(Legal heirs of Late Santosh Saha)

..... **Appellant(s)**

Vs.

The State of Tripura and ors.

..... **Respondent(s)**

For the Appellant(s) : Mr. N. Chowdhury, Advocate.

For the Respondent(s) : Mr. K. De, Addl. G.A.

Date of hearing and delivery of
Judgment & Order : 15.02.2023.

Whether fit for reporting : YES/NO.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

JUDGMENT AND ORDER(ORAL)

This present appeal has been filed under Section 54 of the Land Acquisition Act, 1854 by the referring claimants against the judgment and award dated 26.04.2021 passed in connection with Case No.Civil Misc.(L.A.) No.214 of 2016 by the learned L.A. Judge, West Tripura, Agartala, Court No.1

2. The fact of the case, in brief, is that, at the request of the Additional General Manager, NBCC, the Revenue Department, Government of Tripura, vide Notification No.F.09-REV/ACQ/VI/2010 dated 30.11.2010 acquired 'naI' class of land

measuring 0.23 acres of the claimant for the purpose of construction of single row IBB fencing along with Indo-Bangla border under Sub-Division- Sadar, near border Golchakkar under Mouja-Ramnagar, sheet No.2 & 3P, appertaining to khatian No.2822/2, comprising in plot No.4253/P, 4271/P & 4264/P District- West Tripura.

3. The L.A. Collector, West Tripura made an award for compensation @ Rs.5,00,000/- per kani for the said acquired land. The claimant-appellant being dissatisfied with the award of the L.A. Collector, West Tripura prayed for reference under Section 18 of the L.A. Act, 1894. The claimant in his claim statement claimed the value of the land @ Rs.2,00,00,000/- per kani. Accordingly, the matter was referred to the L.A. Judge, West Tripura, Agartala which was registered as Case No.Misc.(L.A.) No.214 of 2016.

4. The learned L.A. Judge, West Tripura, Agartala, Court No.1 after hearing both the parties and perusing the evidence on record passed judgment and award dated 26.04.2021, wherein, the claimant-appellant was entitled to get compensation @ Rs.10,00,000/- per kani only for the acquired land along with statutory benefits and interest. The operative portion of the said judgment and award is as follows:-

"Now, therefore, the reference is allowed. The claimant is entitled to get compensation @ Rs.10,00,000/- (Rupees ten lakh) per kani only for the acquired land. The claimant will also get 30% Solatium, and 12% further enhanced amount of compensation upon the said enhanced land value computing from the date of notification under section 4 of L.A. Act, 1894 upto the date of award by Collector or the date of taking possession of land whichever is earlier, as per section 23(2) and section 23(1-A) of the Act respectively. The claimant will further get interest @ 9% per annum from the date of taking over possession for one year and thereafter @ 15% per annum after expiry of said one year till payment upon said excess amount of compensation as per section 28 of the Act. As per law laid down by Hon'ble Supreme Court in Mehrawal Khewaji Trust, Faridkot & ors. V. State of Punjab & ors., 2012 AIR SCW 2822, the interest will also be counted on additional amount as awarded under section 23(1A) above and upon the solatium awarded under section 23(2) of the Act. The claimant will also get Rs.1000/- as cost under section 27 of the Act. Both the Opp. Parties are made jointly and severally liable to make the payment with interest and cost as awarded above.

5. Being aggrieved with the judgment and award dated 24.04.2021 passed by the learned L.A. Judge, West Tripura, Agartala, Court No.1, in Misc. (L.A.) 214 of 2016, the appellants herein has filed this instant appeal praying for the following reliefs:-

- " i. Admit this appeal.*
 - ii. Call for the records in case No. Misc. L.A.214 of 2016 from the Court of Id. Land Acquisition Judge, West Tripura, Agartala in Court No.1.*
 - iii. Issue notice upon the respondents.*
 - iv. Upon hearing the parties Your Lordships would be pleased to set aside judgment and award dated 26.04.2021 passed by the Id. Land Acquisition Judge, West Tripura, Agartala in Court No.1 and enhance the award amount given by the L.A. Collector, West Tripura, Agartala.*
- Pass any other order/orders as your Lordships may deem fit and proper in the circumstances of the case."*

6. Mr. N. Chowdhury, learned counsel appearing for the appellants submits that the judgment and award as passed by the learned L.A. Judge is perverse and erroneous in the

point of law and facts. The learned L.A. Judge ought to have considered that the adjacent 'nal' class of land of same Mouja and Tehsil was transferred by a sale dated No.1-9646 dated 30.11.2010 @ Rs.1,06,00,000/- per kani. But the learned L.A. Judge did not consider the same. Learned L.A. Judge ought to have considered the importance and potentialities of the acquired land which is situated within the Municipal Corporation area. Stating thus, learned counsel urged this Court to allow this appeal.

7. Mr. K. De, learned Addl. G.A. appearing for the respondents submits that the judgment and award as passed by the Court below is just and proper and needs no interference since the same has been passed based on the reasonable findings.

8. Heard both sides and perused the evidence on record. The Court below took into consideration sale deed No.1-8950 dated 27.10.2003, wherein, a land area of 0.04 acre of mouja Ramnagar from plot no.4276 of Bastu(nal) class of land was sold @ Rs.4 lakh per kani. Whereas, the L.A. Collector in this case awarded compensation @ Rs.5 lakhs per kani. The Court below observed that the said sale transaction took place in the year 2003, whereas the acquisition of the land in question was held in the year 2010. In another sale

deed No.1-9646 dated 28.10.2016, a land measuring 0.03 acre from Plot No.4434/11460 of vitti(Nal) class of land was sold at Rs.1,06.00,000/- per kani. In this case, the Court below observed that the land is not similar to the acquired land. Moreso, it was executed after about 06 years from the date of acquisition. Thus, this deed cannot be relied upon. Further, the Court below observed that no trace map was also proved by the claimant to show the distance of acquired land and the sale exemplars. The Court below further observed that the L.A. Collector erred in fixing the value of the acquired land @ Rs. 5 lakhs per kani. The court below observed that the land valuation chart fixed by the Government for registration purposes may not exhibit the real price of the land, however in absence of any cogent evidence, the value of the acquired land was determined at Rs.10 lakhs per kani. In view of the above observation and finding of the Court below, this Court is of the opinion that the award as reached by the Court below vide judgment and award dated 26.04.2021 is based on valid reasons and findings and the same needs no interference.

9. In view of the above, this instant appeal is dismissed. The judgment and award dated 26.04.2021 passed in Misc.(L.A.)214 of 2016 is upheld as the same is just and proper.

10. Stay order, if any, stands vacated. Pending application(s), if any, also stands disposed of. Return the LCRs forthwith.

JUDGE

suhanjit

